

Department of Social and Health Services

DP Code/Title: PL-WF Marr Lawsuit

Agency Wide

There are 3 Programs in this DP

Budget Period: 2003-05 Version: 11 2003-05 Agency Request Budget

**Recommendation Summary Text:**

**Program(s): 030**

Eastern State Hospital (ESH) proposes to establish a separate Habilitative Mental Health (HMH) ward exclusively for persons who are enrolled with the Division of Developmental Disabilities (DDD). This ward would use existing vacant space at ESH, but will require some alterations to accommodate the DDD clients needs. Funding is being requested for 2.0 FTEs, staff training costs, and court monitor costs per the preliminary Marr's settlement agreement.

**Program(s): 040**

This item provides professional support services at Eastern State Hospital to eligible division clients identified as members of a class action lawsuit, Marr vs. DSHS, et al. and future Marr class members.

**Fiscal Detail:**

**Operating Expenditures**

	<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>Total</u></b>
<b>Overall Funding</b>			
001-1 General Fund - Basic Account-State	500,000	469,000	969,000
001-7 General Fund - Basic Account-Private/Local	58,000	54,000	112,000
001-C General Fund - Basic Account-DSHS Medicaid Federa	187,000	173,000	360,000
<b>Total Cost</b>	<b>745,000</b>	<b>696,000</b>	<b>1,441,000</b>

**Staffing**

	<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>Annual Avg</u></b>
Agency FTEs	5.5	5.5	5.5

**Package Description:**

**Program(s): 030**

This request is for additional funding to support patients who are identified as being enrolled in the Division of Developmental Disabilities (DDD) program. These clients are currently intermixed with other non-DDD patients at ESH. Currently, the DDD population is located on Geropsychiatric, Forensic and Adult Units with patients who are not developmentally disabled. The program that is being developed for the DDD population at ESH is unique and significantly different from traditional Mental Health Programs. It has been proven at Western State Hospital that caring for DDD patients in a homogeneous setting enhances the effectiveness of the program and results in more successful outplacements.

This new HMH program would be developed in existing space at ESH, so additional funding is needed only for additional staffing needs.

The physical layout of the ward allows for separation of patients based on their acuity and the need for individual safety. It includes sufficient space for habilitative programming. Criteria for entry into the program would limit enrollment to only DDD enrolled patients who are admitted to ESH. Patients would be admitted, treated, and discharged from this unit.

**Program(s): 040**

In December 1998, the Secretary of DSHS established a collaborative workgroup with staff from the Division of Developmental Disabilities (DDD), the Mental Health Division (MHD), and the community mental health system. This workgroup was charged with developing a set of recommendations regarding how to reduce the unnecessary hospitalization of dually diagnosed persons, improving services during hospitalization, and facilitating the timely discharge of patients determined psychiatrically stable. Their report was published in April 1999.

In January 1999, the Washington Protection and Advocacy System (WPAS) filed a class-action lawsuit against the state (Allen vs. DSHS) alleging abuse and neglect of individuals with developmental disabilities. It further alleged that individuals were denied opportunities for discharge to community programs and were at risk of unnecessary involuntary commitment. The WPAS suit entered court-ordered mediation in October 1999 and reached a mediated settlement on December 2, 1999.

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In December of 2001, WPAS filed a second class action suit against the state (Marr v. DSHS) specifically involving Eastern State Hospital and DDD Regions 1 and 2. The trial date for this litigation is scheduled in December 2002 although DSHS and WPAS will be entering in court-ordered mediation in July and August 2002.

The funding provides individual client case management, resource management, and professional psychological services for Marr class members. The division is asking for 2.0 FTEs Intensive Case Managers, 0.5 FTE Case Resource Manager, and 1.0 FTE Psychologist 5 to carry out duties associated with Marr class members. In addition, the division anticipates that a court ordered monitoring committee would be required to oversee the settlement in Marr vs DSHS and is asking for additional funds in the amount of \$75,000 per fiscal year to support program oversight.

**Narrative Justification and Impact Statement**

***How contributes to strategic plan:***

**Program(s): 030**

This proposal will address patient and staff safety, and program effectiveness for treating persons with developmental disabilities enrolled in DDD.

**Program(s): 040**

This decision package relates to the division's Strategic Plan through Goal 1- DDD will effectively and efficiently use resources to accomplish the values, principles, and the mission of the division while maintaining accountability for public and client safety, and authorized resources, and Goal 5-DDD will design and maintain an effective system of residential supports and services. Specifically, the components of the decision package will enable the division to assist in implementation of the Collaborative Workplan, as it relates to Marr vs DSHS and provide supports for persons determined likely to pose significant risks to public safety.

***Performance Measure Detail***

**Program: 030**

**Goal: 02C Enhance safety for consumers, employees and the public**

**Incremental Changes**

**FY 1      FY 2**

**Output Measures**

3CA Monthly average of daily census for state hospitals

0      0

**Program: 040**

**Goal: 03D Design/maintain system of residential supports and services**

**Incremental Changes**

**FY 1      FY 2**

**Output Measures**

3DB Provide community protection services to DD clients with Public Safety issues.

0      0

**Goal: 06D Effectively/efficiently use resources to accomplish values/principals/ mission**

**Incremental Changes**

**FY 1      FY 2**

No measures submitted for package

***Reason for change:***

**Program(s): 030**

Current space allocation and patient assignment does not allow separation from the chronically mentally ill population. In addition, the hospital does not have the ability to segregate DDD enrolled patients from other aggressive and dangerous patients. Funding this request would remedy these problems.

Additionally, this request is being made in response to a pending lawsuit (Marr) by the Washington Protection and Advocacy System (WPAS) against the Department of Social and Health Services (DSHS). This request is based on the preliminary

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settlement agreement between DSHS and WPAS for care of DDD enrolled patients at ESH.

**Program(s): 040**

The settlement proposal avoids litigation. The response to the lawsuit is similar to that of the Allen lawsuit settlement in 2001.

***Impact on clients and services:***

**Program(s): 030**

This proposal would allow all DDD enrolled patients at ESH to reside in one location. Staff would provide HMH services on that ward and in the Work Center. Ward design would allow patients to be physically separated, thus assuring patient and staff safety. Utilization of the identified separate ward would allow access to the outdoor environment without contact with other mentally ill patients.

**Program(s): 040**

The Marr class members will receive their necessary supports.

***Impact on other state programs:***

**Program(s): 030**

None

**Program(s): 040**

The MHD will also be impacted. These clients are dually diagnosed and receive services from both divisions.

***Relationship to capital budget:***

**Program(s): 030    040**

None

***Required changes to existing RCW, WAC, contract, or plan:***

**Program(s): 030    040**

None

***Alternatives explored by agency:***

**Program(s): 030**

Other alternatives were not explored.

**Program(s): 040**

An alternative would be to continue utilizing the existing staff to complete the work associated with the DDD/MHD Collaborative Work Plan in response to the Stay of Proceedings in Allen vs DSHS. Doing this would delay the implementation of several key factors in the Collaborative Work Plan as well as jeopardize the state's position in Marr vs DSHS, which is now being mediated.

An alternative would be to use existing funds within the department to pay for the Monitoring Committee expenses.

***Budget impacts in future biennia:***

**Program(s): 030**

The costs of staffing needs would continue into future biennia.

**Program(s): 040**

These costs will impact future biennia at the second fiscal year funding level.

***Distinction between one-time and ongoing costs:***

**Program(s): 030**

Court monitor costs are one-time only, but all other costs are ongoing.

**Program(s): 040**

There are minor one-time costs associated with the new FTEs such as equipment purchases. All other costs are ongoing.

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***Effects of non-funding:***

**Program(s): 030**

Lack of ability to provide appropriate treatment for clients with dual diagnoses, developmental disability/mental illness, will result in increased census pressure at ESH. In addition, the proposed settlement of the Marr lawsuit will be placed in jeopardy.

**Program(s): 040**

The division will have to utilize existing staff to complete the work associated with the DDD/MHD Collaborative Work Plan in response to the Stay of Proceedings in Allen vs DSHS. This would delay the implementation of several key factors in the Collaborative Work Plan as well as jeopardize the state's position in Marr vs DSHS, which is now being mediated.

Non-funding also would jeopardize the state's ability to successfully mediate Marr vs DSHS.

***Expenditure Calculations and Assumptions:***

**Program(s): 030**

See attachment - MHD PL-WF Marr Lawsuit.xls

**Program(s): 040**

This package funds a full-time psychologist, two intensive case managers, and one part-time case resource manager to provide necessary support to Marr class members.

This package also funds a team of four court appointed monitors to visit ESH and DDD Regions 1 and 2 quarterly.

See attachment - DDD PL-WF Marr Lawsuit.xls

<b><u>Object Detail</u></b>		<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>Total</u></b>
<b>Overall Funding</b>				
A	Salaries And Wages	334,000	334,000	668,000
B	Employee Benefits	83,000	83,000	166,000
E	Goods And Services	313,000	264,000	577,000
G	Travel	15,000	15,000	30,000
<b>Total Objects</b>		<b>745,000</b>	<b>696,000</b>	<b>1,441,000</b>

State of Washington  
**Decision Package**  
**Department of Social and Health Services**

**FINAL**

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**DSHS Source Code Detail**

<b>Overall Funding</b>		<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>Total</u></b>
<b>Fund 001-1, General Fund - Basic Account-State</b>				
<b><u>Sources</u></b>	<b><u>Title</u></b>			
0011	General Fund State	500,000	469,000	969,000
<i>Total for Fund 001-1</i>		<b>500,000</b>	<b>469,000</b>	<b>969,000</b>
<b>Fund 001-7, General Fund - Basic Account-Private/Local</b>				
<b><u>Sources</u></b>	<b><u>Title</u></b>			
5417	Contributions & Grants	58,000	54,000	112,000
<i>Total for Fund 001-7</i>		<b>58,000</b>	<b>54,000</b>	<b>112,000</b>
<b>Fund 001-C, General Fund - Basic Account-DSHS Medicaid Federa</b>				
<b><u>Sources</u></b>	<b><u>Title</u></b>			
19TA	Title XIX Assistance (FMAP)	42,000	40,000	82,000
19UL	Title XIX Admin (50%)	145,000	133,000	278,000
<i>Total for Fund 001-C</i>		<b>187,000</b>	<b>173,000</b>	<b>360,000</b>
<b>Total Overall Funding</b>		<b>745,000</b>	<b>696,000</b>	<b>1,441,000</b>

**Funding Totals by Program**

Dollars in Thousands

<b><u>Program</u></b>	<b><u>FTE's</u></b>		<b><u>GF-State</u></b>		<b><u>Total Funds</u></b>	
	<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>FY 1</u></b>	<b><u>FY 2</u></b>	<b><u>FY 1</u></b>	<b><u>FY 2</u></b>
030 Mental Health	2.0	2.0	263	253	363	347
040 Div of Developmntl Disab	3.5	3.5	237	216	382	349
150 Info SYS Svcs Div	0.0	0.0	0	0	0	0
<b>Grand Total:</b>	<b>5.5</b>	<b>5.5</b>	<b>500</b>	<b>469</b>	<b>745</b>	<b>696</b>